

BEFORE THE KANSAS WORKERS COMPENSATION APPEALS BOARD

FERNAN PEREZ

Claimant

v.

CARGILL MEAT SOLUTIONS CORP.

Respondent

and

OLD REPUBLIC INSURANCE CO.

Insurance Carrier

Docket No. 1,074,026

ORDER

Claimant, through his attorney, M. Steven Wagle, requested review of the July 14, 2016 Order Denying Medical Treatment entered by Administrative Law Judge Pamela J. Fuller.¹ D. Shane Bangerter appeared for respondent and its insurance carrier.

FINDINGS AND ANALYSIS

The underlying Order, while not listing a date of injury by repetitive trauma, was denied based on lack of timely notice. Many of the facts of this case are not pertinent because this appeal must be dismissed on procedural grounds.

The Board's review of the disputed Order is predicated on claimant having perfected an appeal within 10 days thereafter, as stated in K.S.A. 2015 Supp. 44-551(l)(1):

All final orders, awards, modifications of awards, or preliminary awards under K.S.A. 44-534a, and amendments thereto, made by an administrative law judge shall be subject to review by the workers compensation appeals board upon written request of any interested party within 10 days. Intermediate Saturdays, Sundays and legal holidays shall be excluded in the time computation.

The Order was dated July 14. Pursuant to K.A.R. 51-18-2(a), the effective date of the Order was the day following the date noted on the Order, or July 15. The first day of the 10-day appeal time was July 18. The last day of the appeal time was July 29. Claimant's request for Board review was not filed until August 10. Because claimant's request for review was untimely, the Board has no authority to review the Order and claimant's appeal must be dismissed for lack of jurisdiction. This Board Member expresses no opinion regarding the merits of the appealed decision.

¹ Claimant's attorney mailed a Motion to Withdraw on August 11, 2016. That same day, claimant's attorney filed a Motion for Extension of Time to File Brief so that claimant would have additional time to obtain new counsel.

CONCLUSION

WHEREFORE, claimant's request for Board review is dismissed for lack of jurisdiction.

IT IS SO ORDERED.

Dated this _____ day of September, 2016.

BOARD MEMBER

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Honorable Pamela J. Fuller